

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Establishment- Cooperation Department-Gazetted officers- Sri L. Premachandra Reddy, IAS-formerly Cooperation Department- Request of alteration of date of birth-Rejected.

AGRICULTUREAND COOPERATION (COOP-II) DEPARTMENT

G.O.Rt No. 1445

Dated:05-12-2009.

Read the following:-

1. Representation of Sri L. Premachandra Reddy, IAS, Commissioner of Technical Education, Hyderabad, dated:13.10.2008, addressed to the Chief Secretary to Government of AP.
2. From the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad Rc.No.27340/2008/SG1, dated:06.04.2009.

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ORDER:

Sri L. Premachandra Reddy, IAS., in his representation 1st read above has stated that he was born in MLL Hospital Madanapalle on 28.03.1956 to Sri L.V.Krishna Reddy, and Smt Pramila who got married on 10-6-1955 and the same was registered in the Madanapalle Municipal records, that his date of birth was erroneously entered in the S.S.C., School records as 10.06.1954. He has also stated that he was appointed as Deputy Registrar of Cooperative Societies and he reported for training in the office of Divisional Cooperative officer, Ananthapur on 16.11.1978 and submitted a declaration regarding his date of birth to the Govt., through proper channel on 29.11.1978 which is within one month from the date of his joining service as stipulated under G.O. Ms No.18, Fin&Plg (Fin.wing.FR.I) Department dated:09.01.1978 and as per the above G.O. Government have to take a decision within four months from the date of receipt of the declaration by the Government servant that in his case no decision of rejecting his declaration with reference to date of birth has been communicated, thus the declaration given by him deemed to have been accepted. But unfortunately, when he was appointed to Indian Administrative Service, the Government of A.P. has indicated his date of birth as 10-6-1954 and therefore in the service record maintained by the Government of India also his date of birth is recorded as 10-6-1954. In the circumstances explained, the individual has requested the Government to take necessary action to alter his date of birth in the service records of the State Government as 28.03.1956 and to inform the Government of India the correct date of birth as 28.03.1956.

2. The Commissioner for Cooperation and Registrar of Cooperative societies, AP, Hyderabad in his letter 2nd read above has stated that the officer in his representation has stated that he submitted a declaration regarding his date of birth to the Government through proper channel on 29.11.1978 which is within one month from the date of his joining service as stipulated under G.O. Ms No.18, Fin&Plg (Fin.wing.FR.I) Department dated:09.01.1978. In this regard he has stated that though the individual's appointment as Deputy Registrar and deputation for training are verified from the records, the fact relating to the submission of declaration to the Department regarding his date of birth could not be verified as the said record is not traceable. The individual produced copies of the declaration and forwarding letter of the District Cooperative Officer, Ananthapur dated:08.12.1978. However on verification of available records in the office there is no proof of any Government orders having been issued on the representation of the individual dated:29.11.1978 to change his date of birth from 10.06.1954 to 28.03.1956.

3. The matter has been examined and it is observed that the Member of Service in his representation has stated that after his joining service as Deputy Registrar on 16.11.1978 and he submitted a declaration on 25-11-1978 i.e., within the period of one month that to correct his date of birth as 28-3-1956 instead of 10-6-1954 as per Subsidiary Rules made under FR 74(a)(iv) note 5. On receipt of such declaration the Government shall pass appropriate orders after making an enquiry within 4 months period. But it is not known why he was silent all these years after submitting the declaration since no orders were issued in response to his declaration. The contention submitted by the officer that since, no

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decision of rejecting his declaration has been communicated, his declaration regarding alteration of date of birth deemed to have been accepted, may not be agreed to. As per the papers enclosed with the representation it is observed that the individual has submitted his representation along with declaration through proper channel vide District Cooperative Officer Letter dt. 08.12.1978. But, no evidences have been produced either by the individual or by the Commissioner for Cooperation and Registrar of Cooperative societies, A.P., Hyderabad regarding transmission of representation to Government who are competent authority to take appropriate action in the matter. The Member of Service has approached the Government nearly after 30 years of his representation stated to be submitted, along with Xerox copies of certain documents and wedding invitation cards of his parents marriage. The Commissioner for Cooperation and Registrar of Cooperative societies, A.P., Hyderabad in this regard has stated that the fact relating to submission of declaration to the Department could not be verified as the said record is not traceable. The officer in his representation has stated when he was appointed to Indian Administrative Services; the Government of A.P. has indicated his date of birth as 10-6-1954. The officer even at that point of time also did not approach the Government for alteration of date of birth. The Member of Service has now approached the Government for alternation of his date of birth at the fag end of service.

4. According to Rule 5 of A.P. Employment (Recording and Alteration of date of Birth) Rules, 1984, the cases in which the Government employees have already applied for alteration of their date of birth and which are pending on the date of commencement of these rules, shall be dealt with on the basis of recorded age in school and college records at the time of entry in to Government service.

5. Regarding validity of rule 5 of the said rules fell for consideration before the Supreme court of India in Government of A.P. Vs. M. Hayagreeva Sarma, (1990) 2 SCC 682 and the Supreme Court inter- alia has observed as follows:

" Thus if on the date of entry into service the date of birth of an employee was recorded in his service book on the basis of his age as recorded in the School and College certificate in that event the date so recorded shall be treated to be correct date of birth. However, if the date of birth recorded in the service book at the time of the entry of an employee is not based on school or college records Rule 5 does not operate as a bar for consideration of other relevant materials in determining the date of birth of the employee".

6. The Supreme Court in U.P.Madhyamik Siksha Parishad and others Vs. Raj Kumar Agnihotri reported in AIR 2005 S.C.2491 held that, a correction in entries made in Government records on the basis of which the Government servant got the service cannot be allowed to be changed just a few years before retirement or at the fag end of his retirement.

7. In the instant case the date of birth of the Officer was entered in the Service Register as 10-6-1954 based on the school/college records. There is no proof available in the officer of the Registrar of Cooperative Societies or in the Government in Cooperation Department to the effect that the officer fhas submitted his application also disposal of the same. Even if it is presumed that the application submitted by the officer is still pending, in such case also the date of birth of an employee which was recoded in his service book on the basis of his age As recorded in the school and college certificate shall be treated to date of birth as per the Judgment delivered by the Supreme Court reported in (1990)2 SCC 682.

8. The Hon'ble supreme Court in Regional Provident Fund Commissioner Vs. Bhavani(AIR.2008 SC 2957) held that:

" we are not also able to appreciate Dr. Padias Submission that the cases of the respondents should not be considered they had applied at the fag end of their careers for correction of their dates of birth in the applicants records, which practice had been strongly discouraged by this Court. The aforesaid principle can not apply to the case of the respondents as their dates of birth had been correctly recorded in the records of the company, including the respondent's service records, on the basis whereof they had retired from the company's services".

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In Kotte Rajam Vs. Singareni Collaries Company Ltd{2009 (1) SLR 241}, the Hon'ble Supreme Court held that:

" Time and again, the Hon'ble Supreme Court held that the date of birth of an employee cannot be altered at the fag end of the Service. The said observation operates not only against the attempts made by the employees, but also those made by the employers".

9. Government, after careful examination of the matter, considers that keeping in view of the rule 5 of A.P. Employment (Recording and Alteration of Date of Birth) Rules,1984 and the legal position held by the Hon'ble Supreme Court of India in the cases referred above, there is no scope to consider the request of the officer for alteration of his date of birth at this belated stage and the same is liable for rejection. Accordingly, Government hereby reject the representation of Sri L.Premachandra Reddy, IAS, former Deputy Registrar of Cooperative Societies in the reference 1st read above.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K.R.KISHORE,
PRINCIPAL SECRETARY TO GOVERNMENT (AM&COOP)

To
The individual through the Commissioner for Cooperation and Registrar of Cooperative societies, AP, Hyderabad.
The Commissioner for Cooperation and Registrar of Cooperative societies, AP, Hyderabad.
The General Administration (Spl.A) Department.
SF/SC.

//FORWARDED: BY ORDER//

SECTION OFFICER